

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

MAY O'KEEFE

Claim No. CU-7780

Decision No. CU-4886

Under the International Claims Settlement  
Act of 1949, as amended

Represented by Cia. Azucarera Atlantica del Golfo

Counsel for Cia. Azucarera Atlantica del Golfo;  
Dewey, Ballantine, Bushby, Palmer & Wood - By William C. Bush, Esq.

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Appeal and objections from an Amended Proposed Decision entered May 26, 1971.  
No hearing requested.

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Hearing on the record held on September 8, 1971

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FINAL DECISION

In its Proposed Decision issued May 20, 1970 the Commission found that claimant, a national of the United States since birth, was the owner of 200 shares of Atlantica del Golfo Sugar Company which had been issued to her on May 24, 1961, a date subsequent to the nationalization of Atlantica by the Cuban Government. Under Section 507 of the Act, any certification of loss to claimant as an assignee is also limited to the actual consideration paid for these shares. Since claimant had failed to establish the actual consideration, the claim was denied.

Claimant objected to the Proposed Decision and submitted evidence that on May 24, 1961, the date the shares were issued to her, the market price of the 200 shares was \$350.00. The Commission then issued an Amended Proposed Decision certifying a loss in that amount.


Claimant has objected contending that she is entitled to the value of the 200 shares at the time of the nationalization of Atlantica del Golfo Sugar Company, namely \$3,500.00.

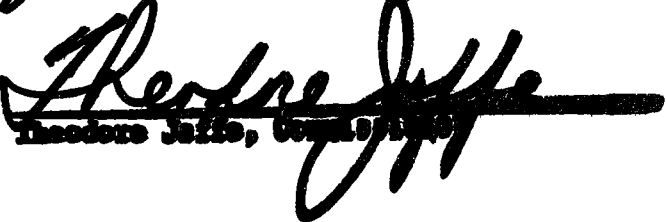
The Commission reaffirms its holding that Title V of the Act specifically states that a certification based on a purchase made after the date of loss must be limited to the consideration paid. Accordingly, stock market value on August 6, 1960, the date of nationalization of Atlantica properties would not be applicable in the instant case.

The Commission finds no basis for altering its Amended Proposed Decision, and accordingly, it is affirmed in all respects.

Dated at Washington, D. C.,  
and entered as the Final  
Decision of the Commission

**SEP 8 1971**

  
Lytle S. Garlock, Chairman

  
Theodore Jaffe, Chairman

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AMENDED PROPOSED DECISION

In its Proposed Decision issued May 20, 1970 the Commission found that claimant, a national of the United States since birth, was the owner of 200 shares of Atlantica del Golfo Sugar Company which had been issued to her on May 24, 1961, a date subsequent to the nationalization of Atlantica by the Cuban Government. Under Section 507 of the Act, any certification of loss to claimant as an assignee is also limited to the actual consideration paid for these shares. Since claimant had failed to establish the actual consideration, the claim was denied.

Based on newly submitted evidence and a review of the entire record, the Commission now finds that on May 24, 1961 the value of claimant's interest in the property was \$350.00. The Commission concludes that claimant sustained a loss, within the meaning of the Act, in this amount.

The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644) and in the instant case it is so ordered. Accordingly, it is


ORDERED that the Proposed Decision be amended to conform to the foregoing.

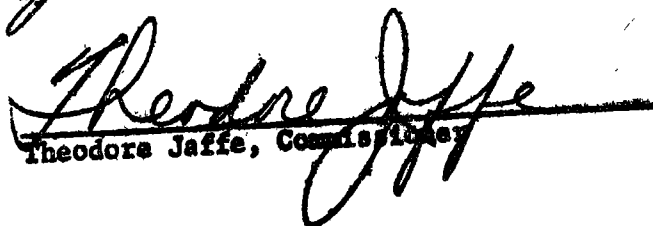
CERTIFICATION OF LOSS

The Commission certifies that MAY O'KEEFE suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Three Hundred Fifty Dollars (\$350.00) with interest thereon at 6% per annum from May 24, 1961 to the date of settlement.

Dated at Washington, D. C.,  
and entered as the Amended  
Proposed Decision of the Commission

MAY 26 1971

  
Lyle S. Garlock, Chairman

  
Theodora Jaffe, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities or the loss here certified.

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Amended Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended. (1970).)

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Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -7780

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Represented by Cia. Azucarera Atlantica del Golfo

Counsel for Cia. Azucarera Atlantica del Golfo:

Dewey, Ballantine, Bushby, Palmer & Wood - By William C. Bush, Esq.

PROPOSED DECISION

Claimant, MAY O'KEEFE, who owned a stock interest in the Cia. Azucarera Atlantica del Golfo, asserts a claim under Title V of the International Claims Settlement Act of 1949, as amended, against the Government of Cuba because of its nationalization of said Company. Claimant has been a national of the United States since birth.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

On the basis of evidence of record, the Commission finds that claimant acquired 200 shares of Atlantica by purchase, evidenced by certificates issued on May 24, 1961. Claimant however does not know the consideration paid.

Under the provisions of Section 504(a) of the Act, a claimant is required to establish that the claim for any loss has been continuously owned by a national or nationals of the United States from the date of loss to the date of filing with the Commission. The loss occurred on August 6, 1960. In similar cases, claimants have been unable to obtain information or evidence to establish the nationality of the owner of the securities on the date of loss, and to establish continuous United States ownership of the securities until the date on which claimant acquired them.

Evidence of record before the Commission discloses that securities of the type subject of this claim were almost entirely owned and traded by persons or firms having addresses in the United States. The Commission has considered whether an inference may be justified that the claimed securities were continuously owned by a national or nationals of the United States from the date of

loss to the date on which purchased by the claimant, and, in the absence of evidence to the contrary, has concluded that the securities were continuously so owned. (See Claim of Samuel J. Wikler, et al., Claim No. CU-2571, 1968 FCSC Ann. Rep. 47.)

Section 507 of the Act provides, as to assignment of claims, that

(b) The amount determined to be due on any claim of an assignee who acquires the same by purchase shall not exceed (or, in the case of any such acquisition subsequent to the date of the determination, shall not be deemed to have exceeded) the amount of the actual consideration paid by such assignee, or in case of successive assignments of a claim by any assignee.

The Commission finds that claimant, as an assignee by purchase, acquired the claim for the loss sustained by the assignor of the claimed securities, but under the limitations provided in Section 507 of the Act (supra), is limited to the actual consideration paid for these shares.

The Regulations of the Commission provide:


The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

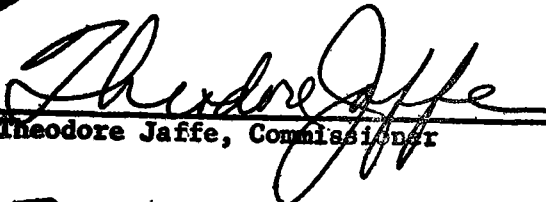
Claimant states she does not know the consideration paid.

The Commission finds that claimant has not met the burden of proof in that she has failed to establish the value of her interest in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

Dated at Washington, D. C.,  
and entered as the Proposed  
Decision of the Commission

**MAY 20 1970**

  
Lytle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

  
Sidney Freidberg, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)